

ASSEMBLY BILL

No. 22

Introduced by Assembly Member Maddox

December 2, 2002

An act to add Section 1596.8717 to the Health and Safety Code, relating to child care.

LEGISLATIVE COUNSEL'S DIGEST

AB 22, as introduced, Maddox. Day care employees: criminal record information.

Existing law provides for the licensure and regulation, by the State Department of Social Services, of child day care facilities.

Existing law makes a violation of these provisions a crime. Existing law requires the department or any other approving authority to perform a criminal record check on an applicant for a license to operate a child day care facility, as well as for staff and employees of a child day care facility.

Existing law prohibits the dissemination of criminal record information by a local law enforcement agency except as prescribed.

This bill would, notwithstanding any other provision of law, permit a law enforcement agency to release to a child day care facility or to a family day care home not subject to child day care facility licensing provisions, criminal record information and other information concerning any encounter that specified persons have had with law enforcement that is not already available under existing law if that person has voluntarily signed a waiver.

This bill would require the department to prepare a waiver form that describes the person's statutory and constitutional privacy rights under existing law and to provide these forms to law enforcement agencies.

This bill would require that the waiver shall only extend to access to the information by a person who works at, operates, or is otherwise affiliated with the facility.

This bill would provide that any person who works at, operates, or is otherwise affiliated with the facility who obtains and disseminates information, not otherwise public, which that person knows or should reasonably know was obtained from confidential information, to a 3rd party is subject to a civil action for invasion of privacy by the individual to whom the information pertains.

Because a violation of child day care facility provisions is a crime, this bill would, by creating a new crime, constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1596.8717 is added to the Health and
- 2 Safety Code, to read:
- 3 1596.8717. (a) Notwithstanding Article 2.5 (commencing
- 4 with Section 11075) of Chapter 1 of Title 1 of Part 4 of the Penal
- 5 Code or any other provision of law, a law enforcement agency may
- 6 disseminate criminal offender record information or any other
- 7 information concerning any encounter with law enforcement that
- 8 is not already available under existing law of any person described
- 9 under subdivision (b) of Section 1596.871 to a day care facility or
- 10 a family day care home described in subdivision (d) of Section
- 11 1596.792, if that person voluntarily signs a waiver as described in
- 12 subdivision (b).
- 13 (b) The department shall prepare the waiver forms described in
- 14 subdivision (a) and distribute them to law enforcement agencies.
- 15 The forms shall include a statement advising the person of the
- 16 confidential nature of the information and of any existing statutory
- 17 or constitutional right to privacy he or she has in the information



1 under existing law. The waiver shall only apply to the
2 dissemination of the information by a law enforcement agency to
3 a child day care facility or a family day care home.

4 (c) A person who works at, operates, or is otherwise affiliated
5 with a child day care facility or a family day care home who
6 receives information pursuant to this section may not disclose this
7 information to any third party unless otherwise authorized to do so
8 according to existing law.

9 (d) Any person who works at, operates, or is otherwise
10 affiliated with a child day care facility or a family day care home
11 and who intentionally discloses information, not otherwise public,
12 which that person knows or should have known was obtained from
13 confidential information obtained pursuant to this section, shall be
14 guilty of a misdemeanor and subject to those criminal penalties
15 specified in Section 1596.890.

16 SEC. 2. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

